

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Sections 163 and 164  
Title 14, California Code of Regulations  
Re: Harvest of Herring and Harvest of Herring Eggs

- I. Date of Initial Statement of Reasons: June 14, 2007
- II. Date of Pre-adoption Statement of Reasons: August 20, 2007
- III. Date of Final Statement of Reasons: October 15, 2007
- IV. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: July 13, 2007  
Location: Bridgeport, CA
  - (b) Discussion Hearing Date: August 10, 2007  
Location: Santa Barbara, CA
  - (c) Adoption Hearing: Date: October 12, 2007  
Location: Concord, CA
- V. Update:

The Commission specified the San Francisco Bay quota to be 1,094 tons which is within the range of 0-10 percent of the estimated 2006-07 biomass noticed in the Initial Statement of Reasons. Further, the Commission adopted the Department recommended season dates for Tomales Bay and San Francisco Bay, decided to allow herring permittees to be within three nautical miles of their nets while fishing instead of the existing one nautical mile regulation starting with the 2007-08 season, amended a section to require that the fee of \$50 for boat transfers and permittee substitution requests must be submitted along with the written request for transfer for substitution, and approved minor changes to clarify and simplify the regulations. An additional minor change was made to correct the revision date on Form 1377 to reflect the current license year application. Based on public testimony, the Commission decided to not grant authority to Director of Fish and Game to choose the quota for the San Francisco Bay and season dates for San Francisco and Tomales Bay for the 2008-09 season and beyond.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

Two letters have been received by the Commission commenting on this item.

**Dan Yoakum Letter dated July 31, 2007** (Attachment 1)

Comment 1

The 1,094 ton harvest proposal is a radical jump (down) from the season before and will lead to instability of the market because it is based on an unbalanced representation of the returning biomass.

Department Response

*The Department's recommendation for the 2007-08 season is 1,094 tons, which is roughly 10 percent of the 2006-07 spawning biomass. The Department continues to be concerned about the status of the herring population in San Francisco Bay; however, we believe that our recommendation is based upon an unbiased evaluation of the current status of the stock, and takes into account the long term sustainability of the fishery.*

Comment 2

The 2005-06 spawning biomass of 140,000 tons and the 2006-07 estimate of 10,000 plus tons dramatically reflects the inaccurate assessment of returning biomass.

Department Response

*The Department's spawning deposition survey methods are comparable to methods used by resource management agencies that oversee commercial herring roe fisheries in Alaska and British Columbia. It is also the recommended methodology from a recent independent peer-review of Department herring assessment work. The precipitous drop in spawning biomass from a record high in 2005-06 to a record low in 2006-07 is not fully understood, and may have been related to unfavorable environmental conditions associated with an El Niño event and an unusually dry winter. There were also large declines in the spawning biomass following the 1981-82 and 1996-97 seasons in San Francisco Bay when the spawning biomass dropped 46,600 tons and 69,570 tons, respectively. Both of these drops occurred during strong El Niño events. Further, during the 2005-06 spawning season herring utilized large beds of the red algae (*Gracilaria* spp.) as a spawning substrate. The small number of red algae samples taken during the pre-season vegetation surveys was identified as a potential source of error because a few abnormally high density samples may have caused an upward*

*bias in the 2005-06 spawning biomass estimate. To address this possible source of error DFG increased the number of red algae samples taken during the 2006-07 season.*

### Comment 3

The (DFG) spawn survey team's methods may fall short of accuracy because herring spawn differs in depth and location continually, as in the 2005-06 season when the spawn was primarily in Richardson Bay, Sausalito. This area is easily accessed by Department biologists making spawn samples and biomass estimates easier to obtain.

### Department Response

*Pacific herring are known to spawn on all types of substrate (except mud) in intertidal and shallow subtidal areas of San Francisco Bay. During the herring spawning season (November-April) Department biologists systematically survey shoreline areas throughout the bay looking for signs of herring spawning activity. Biologists also receive information on the location of spawning activity from herring fishermen. While some of the smaller spawn events may have gone undetected by biologists and fishermen during the 2006-07 season, the Department notes that these spawns, if surveyed, would probably not have contributed significantly to the overall spawning biomass.*

### Comment 4

Mr. Yoakum proposes that the Commission adopt a policy that averages the previous three seasons of spawning biomass estimates (to set the quota) which will create a more accurate assessment of the returning spawn as well as providing a wider sample based on the approximate three-year spawning age of herring.

### Department Response

*The previous season's biomass is considered by the Department the best available estimate to quantify herring returning the following season. Coastal pelagic species such as herring are comprised of comparatively few year classes, the strength of which may vary greatly from year to year. Consequently, annual abundance and availability may be expected to change from year to year due in part to the strength of each new incoming year class. Multi-year biomass averages would tend to mask inter-annual variability, which could lead to overexploitation when the stock declines.*

*In addition, the quotas for the San Francisco Bay herring fishery are not determined by a fixed percentage, but rather from within a range of values, the*

*upper bound of which should not be exceeded in order to maintain a sustainable fishery. The selection of a quota from within that range is based on additional biological and fishery data collected each season, such as growth rates, strength and importance of individual year-classes, recruitment of incoming year-classes, and oceanographic conditions.*

#### Comment 5

Mr. Yoakum agrees with most other Department proposals and is in favor of the Fish and Game Director determining the season's quota with the help of the Director's Herring Advisory Committee (DHAC) which will result in less red-tape, paperwork, and unnecessary expense.

#### Department Response

*Comment noted.*

#### **Joe Aliotti Letter dated July 31, 2007 (Attachment 2)**

#### Comment One

The San Francisco herring industry was with started with seining. Harvesting was spread out through out the bay in deep water as well as shallower areas. Fishing pressure was not concentrated in any general or specific area. There appeared to be normal cycles with a strong, steady spawning biomass.

#### Department Response

*Comment noted.*

#### Comment Two

Seiners and gill netters worked together for 20 years. Even with the expansion of gill netting into three groups, the biomass held steady. Except for two-three years following the El Niño, the biomass held constant between 80,000 to 100,000 tons or greater at times.

#### Department Response

*From the 1978-79 season (when the Department began estimating both intertidal and subtidal spawns) to the 1997-98 season (the last season round haul gear was used in San Francisco Bay) the spawning biomass exhibited a notable degree of year-to-year variability. During this period it averaged 55,726 tons per year, with a range of 20,000 to 99,600 tons.*

### Comment Three

The year the Department decided to terminate seining the biomass was at 100,000 tons. Starting with the first year without seining the biomass has crashed dramatically and is now short of total destruction. Doesn't anybody see that there might be a relationship between the termination of seining with the collapse of the biomass and this industry?

### Department Response

*The conversion of round haul permits to gill net permits in the San Francisco Bay Pacific herring fishery was adopted by the Commission in August 1994 and implemented in September 1994. A principle reason for the conversion was that the round haul gear tended to capture smaller and younger herring than the gill net gear, which disproportionately reduced the spawning potential of the stock. The spawning biomass for the 1994-95 season was 40,000 tons. The last season round haul gear was used in San Francisco Bay was during the 1997-98 season which coincided with a very strong El Niño event. There are indications that this El Niño event negatively impacted California Pacific herring stocks for several years.*

### Comment Four

There has been no abatement of the herring runs. We all know they are still coming into the bay because large masses of herring are detected annually in deep water that doesn't come into the shallows.

### Department Response

*Comment noted.*

### Comment Five

Mr. Aliotti suggests that the Commission try reinstating seining permits, if nothing else, as an experiment.

### Department Response

*The regulations that phased out round haul gear in the San Francisco Bay herring fishery were adopted due to conservation concerns. These regulations represent the culmination of a carefully considered process that included analysis on the biological, social and economic effects of the transition to an all gill net herring fishery. The Department's previous concern over the high percentage of two-and three-year-old herring found in the round haul catch is still valid today, especially with the current status of the San Francisco Bay herring population.*

*One of the Department's herring fishery management goals is to allow the harvest of age four and older herring and to avoid the harvest of two-and three-year-old-fish, many of which are first-time spawners.*

#### Comment Six

The proposed changes make fishing economically infeasible because of the expenses incurred (e.g. gearing up, cost of fuel, berthing, etc.).

#### Department Response

*Comment noted.*

#### Comment Seven

Mr. Aliotti submits that the Commission dispense with the season, including herring-eggs-on-kelp, for the next two or three years until the biomass will support a quota of 5,000 tons.

#### Department Response

*The Department's recommendation for the 2007-08 season is 1,094 tons, which is roughly 10 percent of the 2006-07 spawning biomass. The Department continues to be concerned about the status of the herring population in San Francisco Bay. Consequently, our recommendation provides for a sustainable harvest while taking into account the depressed condition of the stock.*

*The number of boats fishing the San Francisco herring fishery has decreased substantially in the last several years. Since the 2004-05 season, the number of boats actively fishing has gone from over forty to twenty-five and both herring permittees and herring buyers anticipate that the number of boats actively fishing during the 2007-08 season could decrease further. Given the decline in the number of active participants in the fishery and the possibility for improved environmental conditions the Department believes that a 1,094 ton quota will provide for a small fishery while maintaining conservation safeguards against overexploitation.*

#### **Sam Liberati, in oral comment at the October 12, 2007 Commission Meeting**

#### Comment One

Mr. Liberati summarized his involvement with the San Francisco Bay herring fishery and described the evolution of the fishery. He believes the Department's chart presented at the August Commission meeting paints a bleak picture of the fishery based upon catch, and doesn't take into account changes in the fishery.

### Department Response

*The Department recommendations to the Commission are not based on solely commercial catch data. Recent spawn assessment data and biological data collected on the spawning population are considered when assessing the health of the herring population.*

### Comment Two

The Department does not conduct a hydroacoustic survey to accurately calculate an estimate; spawning ground surveys miss deepwater spawns that are not accounted for in their estimates. Herring fishermen estimate 50,000-60,000 tons of spawning biomass.

### Department Response

*An independent peer review of the Department's spawning biomass estimation methodology found that the hydroacoustic method tended to overestimate the spawning biomass, and the spawning ground survey was a better estimator of spawning biomass. Consequently, the Department discontinued the hydroacoustic survey as a secondary biomass estimation technique. Spawning biomass estimates generated by fishermen lack scientific rigor, and therefore represent a subjective interpretation of stock status.*

### Comment Three

The fact that the Commission received a letter from a fisherman that recommended a closure does not surprise Mr. Liberati because fishermen care about their fishery and are invested in it, but the fishery is not sick and is very healthy.

### Department Response

*Comment noted.*

### Comment Four

Mr. Liberati stated that something is wrong when you set on solid marks, but you aren't catching fish. A lot is going on out in the ocean and fish are now smaller which is also seen in the sardine fishery.

### Department Response

*Comment noted.*

#### Comment Five

Mr. Liberati believes that sea lions are an increasing problem and affecting catch numbers.

#### Department Response

*Comment noted.*

#### Comment Six

Mr. Liberati encourages the Commission to retain its authority and not delegate it to the Director as written in the proposed regulations.

#### Department Response

*Comment noted.*

### **Eddie Genovese, in oral comment at the October 12, 2007 Commission Meeting**

#### Comment One

Mr. Genovese is against the proposed regulations to have the Director choose the season dates and quota, with the Director's Herring Advisory Committee having only input on season dates and not quota. He states that the Commission acts as a checks-and-balance system. He recommends that the Commission continue to set quotas based on recommendations by Department biologists and input from herring fishermen.

#### Department Response

*Comment noted.*

#### Comment Two

Mr. Genovese noted that the fishery isn't perfect. There were a lot of fish, but fish weren't being caught for many reasons. Mr. Genovese believes the Department should include the various reasons why the fishery has been reduced to its current state to put it into perspective.

#### Department Response

*Comment noted.*



## **Ernie Koepf, in oral comment at the October 12, 2007 Commission Meeting**

### Comment One

Mr. Koepf described San Francisco herring fishery and provided a historical perspective of the fishery.

### Department Response

*Comment noted.*

### Comment Two

Mr. Koepf noted that the Director's Herring Advisory Committee (DHAC) has serious issues with the biomass estimation methodology since the hydroacoustic survey methodology was discontinued. DHAC feels the hydroacoustic method is the most accurate way to assess the spawning biomass. Mr. Koepf states that based upon observations by fishermen that the 2006-07 spawning biomass was approximately 45,000 tons and the 2005-06 season was 85,000 tons.

### Department Response

*See Department Response to Comment Two by Sam Liberati.*

### Comment Three

Mr. Koepf suggested that fishermen need a larger quota to attract buyers even if they don't catch the entire quota, and recommends a quota of 4,500 tons for the 2007-08 season.

### Department Response

*See Department Response to Comment Seven by Joe Aliotti.*

### Comment Four

Mr. Koepf recommended that the Commission should retain their authority and not hand it over to the Director.

### Department Response

*Comment noted.*

### Comment Five

Despite its reduced state, mainly due to economic reasons, the San Francisco herring fishery is a valuable cultural asset which should continue.

#### Department Response

*Comment noted.*

#### **Dan Yoakum, in oral comment at the October 12, 2007 Commission Meeting**

##### Comment One

The spawn survey estimate is not as accurate as it should be because the trawl net used to sample herring schools is not set up correctly, and does not sample deep enough for some schools. The four door design tends to fly instead of diving deep and won't reach past depths of 50 feet. Commercial draggers can get well past 150 fathoms.

#### Department Response

*The Department's current trawl net is designed to function as a mid-water trawl to capture fish in the water column and not to be dragged along the bottom. While the mid-water trawl does have its limitations sampling schools below 50 feet, nonbiased samples from herring schools can still be obtained. As herring schools ripen, they tend to move into shallower waters prior to spawning, where they are more effectively sampled with the mid-water trawl. The Department believes that the research trawl net is a valuable tool for collecting biological data on herring spawning schools that enter San Francisco Bay.*

##### Comment Two

The trawl net is an important tool to see which fish have spawned. It matches sampled schools with spawns, to verify if there are underestimates potentially caused by herring spawning out in the deep, far down in the South Bay, or other areas not sampled.

#### Department Response

*The primary purpose of sampling schools with the mid-water trawl is to obtain herring population data (i.e. sex, length, weight, and age) and not to verify underestimates in spawning biomass.*

##### Comment Three

Mr. Yoakum observed the largest amount of fish late in the season that gathered between the Golden Gate, Alcatraz, Sausalito, and Fishermen's Wharf, but the

Department's spawn estimate resulted in a low estimate. He contends that not all of the fish were registered for the event.

Department Response

*Comment noted.*

Comment Four

The quota should remain at last season's level.

Department Response

*See Department Response to Comment Seven by Joe Aliotti.*

**Dennis Deaver, in oral comment at the October 12, 2007 Commission Meeting**

Comment One

The fishery statistics used by the Department can't be used to compare catch because they don't depict changes in the fishery such as effort. Industry effort peaked with a fleet of approximately 400 boats and subsequently declined to its current state with a fleet of about 20 boats.

Department Response

*See Department Response to Comment One by Sam Liberati.*

Comment Two

The dramatic reduction of the herring fleet has lead to greater predation by sea lions because the sea lion population is now concentrated on fewer nets. Sea lions greatly reduce commercial take because sea lions remove herring from the nets.

Department Response

*Comment noted.*

Comment Three

Another reason for declining catch is that herring fishermen are now restricted from fishing in historically productive fishing grounds in San Francisco Bay, such as the Hunters Point area.

#### Department Response

*Comment noted.*

#### Comment Four

All levels of the fishery have been greatly reduced including Department's biological and enforcement staff, as well as the industry. Reduced Department staff levels means staff can't be on the bay all the time which can lead to unrecorded spawning events.

#### Department Response

*Comment noted.*

#### Comment Five

Mr. Deaver states that fishermen are stewards of their own fishery. The DHAC recommended going with a reduced quota despite a record biomass in 2005-06. Fishermen have a large investment to keep the fishery going, but need a certain amount of quota to keep buyers interest. This coming season there may be only one buyer. Twenty boats fishing will not wipe out a fishery. The quota should be 4,500 tons.

#### Department Response

*See Department Response to Comment Seven by Joe Aliotti.*

#### Comment Six

Herring are smaller than they used to be and no one fully understands why.

#### Department Response

*Comment noted.*

#### Comment Seven

Keep the current Department and DHAC roles, where recommendations are forwarded to the Fish and Game Commission for decision.

#### Department Response

*Comment noted.*

**Zeke Grader, in oral comment at the October 12, 2007 Commission Meeting**

Comment One

Mr. Grader stated that the Commission was given authority for regulating the herring fishery from the Legislature to provide a flexible means of running the fishery and this provides an opportunity for a public forum. The Fish and Game Commission should retain its authority to regulate the fishery and keep it a public process.

Department Response

*Comment noted.*

Comment Two

Herring fishery has evolved due to economics; the Japanese market now has greater access to global herring fisheries, and tastes are changing. The future of the fishery may rely upon the development of a food fishery rather than a roe fishery.

Department Response

*Comment noted.*

Comment Three

Mr. Grader supports a 4,500 ton quota.

Department Response

*See Department Response to Comment Seven by Joe Aliotti.*

Comment Four

Herring fishery related issues should be taken a look at by the FGC Marine Resources Committee to determine: 1) adequacy of funding; 2) adequacy of research; 3) how to improve the fishery.

Department Response

*Comment noted.*

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:  
California Fish and Game Commission  
1416 Ninth Street  
Sacramento, California 95814

VIII. Location of Department Files:

Department of Fish and Game  
1416 Ninth Street  
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulatory Action: No alternatives were identified.
- (b) No Change Alternative: A no change alternative would provide a quota for the 2007-08 fishing season of 4,502 tons.
- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed 2007-08 regulations would affect California's commercial herring fishermen and herring processing plants, all of which are small businesses as defined under Government Code Section 11342.610, but should not affect the ability of California businesses to compete with businesses in other states. Depending on the decision of the Fish and Game Commission (Commission), harvest quotas for San Francisco Bay herring fishermen could decrease from the 2006-07 quota of 4,502 tons to 1,094 tons for 2007-08. In light of the recommended 1,094 ton quota for 2007-08, the maximum potential adverse economic impacts for 2007-08 are given in the table below. Note, variability in environmental and ocean conditions, and

volatility in future herring biomass estimates, prevent realistic forecasts of future economic impacts to the herring industry, beyond the 2007-08 season.

<b>Maximum potential economic impacts from proposed 2007-08 herring fishery quota regulations, relative to year 2006-07 allowable quotas.</b>			
Season(s)	Business Economic Output*	Jobs	Wages and Earnings*
2007-08	\$ (4,965,841)	-61	\$ (2,525,179)
After 2007-08	Unknown	Unknown	Unknown
<i>*All dollar amounts are in year 2006 prices (2006\$). Negative values are incremental losses in output, jobs, or wages relative to last year, and denoted with parentheses or minus sign.</i>			

These maximum potential economic impacts are based on changes in the allowable harvest quota relative to the 2006-07 season. Thus the projected maximum potential economic impacts assume the entire 2006-07 harvest quota was utilized to generate business revenue, jobs, and wages. Similarly, the above maximum potential economic impact projections, assume the entire 2007-08 allowable quotas will be utilized. Differences in the harvest potential between the fishing seasons are then used to estimate incremental impacts to revenue, output, jobs, and earnings, arising from the proposed regulations. However, the probable impacts are expected to be much less since the San Francisco Bay herring fishery only harvested 6.5 percent of the allowable 4,502 ton quota in the 2006-07 San Francisco Bay herring season. Using actual 2006-07 landings history as the initial point of comparison to the proposed regulations, may offer economic projections more indicative of reality.

Relative to actual landings observed in the 2006-07 San Francisco Bay herring fishery, the potential economic impacts projections would be as shown in the table below.

<b>Potential economic impacts from proposed 2007-08 herring fishery regulations, relative to year 2006-07 landings history.</b>			
Season(s)	Business Economic Output	Jobs	Wages and Earnings*
2007-08	\$ 1,168,969	14	\$ 594,432
After 2007-08	Unknown	Unknown	Unknown
<i>*All dollar amounts are in year 2006 prices (2006\$). Negative values are incremental losses in output, jobs, or wages relative to last year, and denoted with parentheses or minus sign.</i>			

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new fees or reporting requirements stipulated under the proposed regulations.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.



(Attachment 1)

Dan Yoakum  
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P.O. Box 944209  
Sacramento, CA 94244-2090  
Phone (916) 653-4899  
Fax (916) 653-5040

July 31, 2007

Re: Comments to proposed regulatory changes for 2007-08 San Francisco Herring Season.

Dear Commissioners:

I am writing in response to the California Fish and Game Department's proposal dated July 26, 2007. The 1.094 ton harvest proposal is the lowest proposed quota on record. This is a radical jump from the season before of an agreed lower quota than the large biomass had called for. This proposal will lead to instability in the market because it is based on an unbalanced representation of the returning spawning biomass. } ①

The 2005-06 season of 140,000 tons and 2006-07 season of 10,000 plus tons dramatically reflects this inaccurate assessment of the returning biomass. The spawn survey team's methods may fall short of accuracy because the herring spawn differs in depth and location continuously, as in the 2005-06 season when the spawn was primarily in Richardson Bay, Sausalito, which as a sampling location was easily accessed and estimated. } ② } ③

I propose that the Commission adopt a policy that averages the previous three seasons of spawning biomass estimates which will serve to create a more accurate assessment of the returning spawn as well as providing a wider sample based on the approximate three year spawning age of the herring. } ④

In conclusion I would like to state my agreement with most of the other proposals and that I am certainly in favor of the F & G Director determining each season's quota, with the help and guidance of the DHAC, which will result in less red-tape, paperwork and unnecessary expense. } ⑤

Sincerely,

*Dan Yoakum*

Dan Yoakum - S.F. HEOK Advisor

Aug 06 07 02:06p

Richard Petty

831 647-9627

p.2

Adrianna Shea  
Dept. of Fish and Game  
State of California Fish and Game Commission  
Sacramento, CA 95814

RE: TITLE 14, F. & G. COMMISSION PROPOSED CHANGES SEC. 163, 164, CCR.

The Herring Fishing Industry started in San Francisco Bay with Seining. This is where I was initiated in this industry. We harvested fish in deep water along with shallower areas. This spread out the capture areas broadly throughout the San Francisco Bay and vicinity. There was no pressure concentrations in any specific nor general area; and every year it varied. At times, it appeared to be the experiencing of normal cycles; the spawning biomass held strongly steady

With the introduction of Gillnetting, we worked together for 20 years, and even with the expansion of gillnetting permits to three groups, the biomass held up steady. Except for 2-3 years following the El Nino, biomass held constant, between 80,000 to 100,000 tons and more at times.

The year you decided to terminate seining, the biomass was at 100,000 tons. Starting with the first year without seining the biomass has crashed dramatically and has come to this point, just short of total destruction.

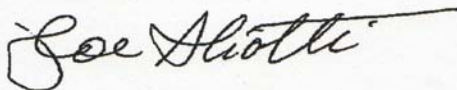
Doesn't anybody see that there might be a relationship between the termination of seining with the collapse of the biomass and this industry? There have been no abatement of the herring runs, we know they are still coming into the bay because large masses of herring schools are detected annually in deep water that don't come to the shallows.

I suggest you try reinstating seining permits, if for nothing else, as an experiment. Try it and see what happens!

As for the proposed changes, it makes this fishing economically infeasible. Nobody will incur the expense of gearing up, taking their boats to the bay and engage in this industry (with today's cost of fuel, berthing, etc) for such quota. Instead, I respectfully submit that you dispense the season, incl. Kelp Harvesting, for the next 2 or 3 years, until you get the biomass that will support a quota of at 5,000 tons. But when you re-open, try a probation period re-allowing seining. THANK YOU.

August 3, 2007

Joe Aliotti  
1101 McClellan Ave.  
Monterey CA 92940



### Updated Informative Digest/Policy Statement Overview

Under existing law, herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify: permittee qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; quotas; and landing and monitoring requirements.

The proposed regulations would establish fishing quotas, establish season dates and times that fishing operations are allowed, grant authority to the Director of Fish and Game (Director) for the 2008-09 season and beyond to choose the quota within a range of 0-15 percent of the most current biomass estimate for San Francisco Bay, grant the authority to the Director for the 2008-09 season and beyond to choose season dates with input from the Director's Herring Advisory Committee (DHAC) for the San Francisco and Tomales Bay fisheries, allow herring permittees in San Francisco Bay to be up to three nautical miles from their nets, require the \$50 fee for boat transfers and substitution requests be submitted with the written request for transfer or substitution, modify a section to correspond with Section 163.5 regarding penalties for late applications, provide clarifying language regarding boat registration, and correct the Herring Eggs on Kelp Permit Application number to correspond with the 2007-08 season application.

The following is a summary of the proposed changes in Sections 163, and 164, Title 14, CCR:

- The proposed regulations would establish fishing quotas by area for the 2007-08 herring fishing season, based on the most recent biomass assessments of spawning populations of herring. The Department is recommending the San Francisco Bay quota be set at 1,094 tons, which represents 10 percent of the 2006-07 spawning biomass estimate. If the Commission were to adopt San Francisco Bay this quota, a 1,094 ton quota this would result in a 1.9 ton individual quota for a "CH" gillnet permittee and a 0.9 ton individual quota for a non-"CH" gillnet permittee participating in the HEOK fishery.

**The Commission specified the San Francisco Bay quota to be 1,094 tons which is within the range of 0-10 percent of the estimated 2006-07 biomass noticed in the Initial Statement of Reasons.**

- For the 2008-09 season and beyond, the proposed regulations would grant authority to Director of Fish and Game to choose the quota within a range of 0-15 percent of the most current biomass estimate for San Francisco Bay. The Director would establish the annual quota based on the determination of the Department as to the status of the stock utilizing the best science available, including but not limited to information from recent fishery-independent field surveys, commercial catches, age composition and environmental data. The Director shall provide the Executive Director of the Fish and

Game Commission and permitted herring fishermen with a memo stating the annual quota by May 15 of each year for the upcoming herring season.

**Based on public testimony, the Commission decided to not grant authority to Director of Fish and Game to choose the quota for the San Francisco Bay for the 2008-09 season and beyond.**

- There are no quota changes proposed for Humboldt Bay/Crescent City Harbor or Tomales Bay for the 2007-08 herring season.
- Proposed regulations would allow fishing in San Francisco Bay from 5:00 p.m. on Sunday, December 2, 2007 until noon on Friday, December 21, 2007 ("DH" gill net platoon only). Recommended dates for the odd and even platoons are from 5:00 p.m. on Wednesday, January 2, 2008, until noon on Friday, March 21, 2008.

**The Commission adopted the Department recommended season dates for San Francisco Bay.**

- The proposed regulations would set the dates of the roe herring fisheries in Tomales Bay from noon on Wednesday, December 26, 2007, until noon on Friday, February 29, 2008.

**The Commission adopted the Department recommended season dates for Tomales Bay.**

- For the 2008-09 season and beyond, the proposed regulations would grant the authority to the Director of Fish and Game to choose season dates, with input from the DHAC, for the San Francisco and Tomales Bay fisheries. The Director shall provide the Executive Director of the Fish and Game Commission and permitted herring fishermen with a memo stating the season dates by May 15 of each year for the upcoming herring season.

**Based on public testimony, the Commission decided to not grant authority to Director of Fish and Game to choose season dates for San Francisco Bay and Tomales Bay.**

- A proposed amendment to the regulations would allow herring permittees in San Francisco Bay to be within three nautical miles of their nets while fishing instead of the existing one nautical mile regulation starting with the 2007-08 season.

**Commission decided to allow herring permittees to be within three nautical miles of their nets while fishing instead of the existing one nautical mile regulation starting with the 2007-08 season.**

- The proposed regulations would amend a section to require that the fee of \$50 for

boat transfers and permittee substitution requests must be submitted along with the written request for transfer for substitution.

**The Commission amended a section to require that the fee of \$50 for boat transfers and permittee substitution requests must be submitted along with the written request for transfer for substitution.**

Following are minor changes proposed to clarify and simplify the regulations.

- The proposed regulations would amend a section to correspond with Section 163.5 regarding penalties for late applications.
- The proposed regulations would correct the Herring-Eggs-on-Kelp Permit Application (FG 1406) (Rev. 11/05) in subsection 164 (h)(1) to coincide with the 2007-08 season application.
- The proposed regulations would correct the Limited Entry Pacific Herring Permit Application (FG 1377) (Rev. 11/05) in subsection 163 (b)(1) to coincide with the 2007-08 season application.

**The Commission approved of minor amendments to clarify and simplify the regulations.**

